

LEGISLATIVE BILL 816

Approved by the Governor May 26, 1999

Introduced by Bohlke, 33

AN ACT relating to postsecondary education; to amend sections 85-408, 85-1101, 85-1102, 85-1104, 85-1105, 85-1108, 85-1109, 85-1401, 85-1402, 85-1409, 85-1410, 85-1412, 85-1413, 85-1414, 85-1416, 85-1420, and 85-1423, Reissue Revised Statutes of Nebraska; to change provisions relating to capital construction projects, out-of-state institutions, new private college establishment, and the Coordinating Commission for Postsecondary Education; to define a term; to provide penalties; to harmonize provisions; to provide operative dates; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 85-408, Reissue Revised Statutes of Nebraska, is amended to read:

85-408. The boards are authorized and directed to establish and maintain such schedule of rates, fees, or charges for the use of the facilities afforded by the buildings constructed or acquired under sections 85-401 to 85-411 and other facilities controlled by such board, the revenue of which in whole or in part is pledged to the holder of the bonds, which shall be in an amount at least sufficient on the amortization plan to pay the operating and maintenance charges thereof and the principal and interest representing the indebtedness against the income and revenue therefrom and may be sufficient in amount to provide for such bond reserve, replacement, and surplus funds as the boards in their discretion shall determine. The amounts in such funds shall be expended for such purposes in connection with the facilities as the boards shall determine, and any amount in any surplus or replacement fund and any amounts received through the sale, condemnation, or destruction of any facilities may be used to construct, repair, or replace any of the types of facilities described in section 85-403. Any amounts in such funds are specifically appropriated to the purposes of such funds and shall at all times be subject to the orders of the boards accordingly.

Before any single expenditure in excess of ~~one hundred~~ two hundred fifty thousand dollars is made from any such surplus or replacement fund, the board concerned shall first submit such proposed expenditure to the Coordinating Commission for Postsecondary Education for review as provided in section 85-1415 and secure the approval of the Legislature or, if the Legislature is not in session, of the Executive Board of the Legislative Council as provided in such section.

Sec. 2. Section 85-1101, Reissue Revised Statutes of Nebraska, is amended to read:

85-1101. For purposes of sections 85-1102 to 85-1104 and section 4 of this act, unless the context otherwise requires, out-of-state institution of higher education shall include any college, university, community college, technical institute, junior college, or the equivalent that offers college credit courses or awards an associate or higher degree and is controlled by a public or private body organized outside the boundaries of the State of Nebraska.

Sec. 3. Section 85-1102, Reissue Revised Statutes of Nebraska, is amended to read:

85-1102. No out-of-state institution of higher education shall offer a course for college credit or degree program within the State of Nebraska unless it is first registered with and been authorized to do so by the Coordinating Commission for Postsecondary Education. The out-of-state institution of higher education shall be exempt from this section if the offering is in the nature of a short course or seminar and instruction for the segment takes not more than twenty classroom hours or each course or program offered by it in this state is offered on a military installation solely for military personnel or civilians employed on such installation.

Sec. 4. (1) Out-of-state institutions of higher education shall make application for authorization to offer college credit courses or degree programs within the State of Nebraska on forms prescribed by the Coordinating Commission for Postsecondary Education. Following receipt of a complete application, the commission shall set a time and place for a public hearing and shall cause notice of the hearing to be published in one or more newspapers of general circulation in the affected county or counties not less

than thirty days or more than sixty days prior to the date set for the hearing. The hearing shall be held as provided in the Administrative Procedure Act.

(2) Following the public hearing, the commission shall either approve or disapprove the application for authorization to offer college credit courses or degree programs in the state. If approved, the commission shall specify in its approval the level and range of courses or degree programs which the applying institution is authorized to offer in the state.

Sec. 5. Section 85-1104, Reissue Revised Statutes of Nebraska, is amended to read:

85-1104. Any person violating sections 85-1101 to 85-1103.01 and section 4 of this act shall be guilty of a Class III misdemeanor.

Sec. 6. Section 85-1105, Reissue Revised Statutes of Nebraska, is amended to read:

85-1105. In order to establish a new two-year, ~~or~~ four-year, graduate, or professional private college, any individual or organization sponsoring such a college shall first petition the Coordinating Commission for Postsecondary Education for approval thereof. Any private college which, on the operative date of this section, has offered one or more four-year undergraduate programs for at least one academic year in compliance with state and federal law shall not be required to petition the commission under this section for approval to offer graduate or professional programs.

Sec. 7. Section 85-1108, Reissue Revised Statutes of Nebraska, is amended to read:

85-1108. (1) In considering the feasibility of the college proposed in a petition under section 85-1105, the Coordinating Commission for Postsecondary Education shall take into account the following factors:

(a) The need for and the objectives of the proposed college;

(b) The proposed instructional program and the plan for staffing such a program, including staff qualifications;

(c) The financial soundness and capability to fulfill its proposed commitments; ~~and~~

(d) Affirmation of intent to seek appropriate accreditation of the institution; and

(e) Such other pertinent factors as relate to the potential of the proposed college to achieve its objectives or as may be developed at the hearing.

(2) The commission may charge a reasonable fee based on its administrative costs for review and authorization and may also adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of sections 85-1105 to 85-1110.

Sec. 8. Section 85-1109, Reissue Revised Statutes of Nebraska, is amended to read:

85-1109. After the hearing, the Coordinating Commission for Postsecondary Education shall either approve or disapprove the petition. If approved, the commission shall specify in its approval the courses and degree programs which the new private college is authorized to offer.

Sec. 9. Any person violating sections 85-1105 to 85-1110 shall be guilty of a Class III misdemeanor.

Sec. 10. Section 85-1401, Reissue Revised Statutes of Nebraska, is amended to read:

85-1401. Sections 85-1401 to 85-1420 and section 18 of this act shall be known and may be cited as the Coordinating Commission for Postsecondary Education Act.

Sec. 11. Section 85-1402, Reissue Revised Statutes of Nebraska, is amended to read:

85-1402. For purposes of the Coordinating Commission for Postsecondary Education Act:

(1)(a) Capital construction project shall mean a project which utilizes tax funds designated by the Legislature and shall be: Any proposed new capital structure; any proposed addition to, renovation of, or remodeling of a capital structure; any proposed acquisition of a capital structure by gift, purchase, lease-purchase, or other means of construction or acquisition that (i) will be directly financed in whole or in part with tax funds designated by the Legislature totaling at least the minimum capital expenditure for purposes of this subdivision or (ii) is likely, as determined by the institution, to result in an incremental increase in appropriation or expenditure of tax funds designated by the Legislature of at least the minimum capital expenditure for the facility's operations and maintenance costs in any one fiscal year within a period of ten years from the date of substantial completion of the project. No tax funds designated by the Legislature shall be appropriated or expended for any incremental increase of more than the

minimum capital expenditure for the costs of the operations and utilities of any facility which is not included in the definition of capital construction project and thus is not subject to commission approval pursuant to the Coordinating Commission for Postsecondary Education Act. No institution shall include a request for funding such an increase in its budget request for tax funds designated by the Legislature nor shall any institution utilize any such funds for such an increase. The Governor shall not include in his or her budget recommendations, and the Legislature shall not appropriate, such funds for such increase.

(b) For purposes of this subdivision:

(i) Directly financed shall mean funded by:

(A) Appropriation of tax funds designated by the Legislature for the specific capital construction project;

(B) Property tax levies used to establish a capital improvement and bond sinking fund pursuant to section 85-1515; or

(C) That portion of tax funds designated by the Legislature and appropriated by the Legislature for the general operation of the public institution and utilized to fund the capital project;

(ii) Incremental increase shall mean an increase in appropriation or expenditure of tax funds designated by the Legislature of at least the minimum capital expenditure for a facility's operations and maintenance costs, beyond any increase due to inflation, to pay for a capital structure's operations and maintenance costs that are a direct result of a capital construction project; and

(iii) Minimum capital expenditure shall mean:

(A) For purposes of subdivision (a)(i) of this subdivision, a base amount of two hundred thousand dollars; and

(B) For the facility's operations and maintenance costs pursuant to subdivision (a)(ii) of this subdivision, a base amount of fifty thousand dollars for any one fiscal year.

Both base amounts shall be subject to any inflationary or market adjustments made by the commission pursuant to this subdivision. The commission shall adjust the base amounts on a biennial basis beginning January 1, 1996. The adjustments shall be based on percentage changes in a construction cost index and any other published index relevant to operations and utilities costs, both as selected by the commission in cooperation with the public institutions. The index or indices shall reflect inflationary or market trends for the applicable operations and maintenance or construction costs;

(2) Commission shall mean the Coordinating Commission for Postsecondary Education;

(3) Coordination shall mean:

(a) Authority to adopt, and revise as needed, a comprehensive statewide plan for postsecondary education which shall include (i) definitions of the role and mission of each public postsecondary educational institution within any general assignments of role and mission as may be prescribed by the Legislature and (ii) plans for facilities which utilize tax funds designated by the Legislature;

(b) Authority to review, monitor, and approve or disapprove each public postsecondary educational institution's programs and capital construction projects which utilize tax funds designated by the Legislature in order to provide compliance and consistency with the comprehensive plan and to prevent unnecessary duplication; and

(c) Authority to review and modify, if needed to promote compliance and consistency with the comprehensive statewide plan and prevent unnecessary duplication, the budget requests of the governing boards or any other governing board for any other public postsecondary educational institution which may be established by the Legislature;

(4) Education center shall mean an off-campus branch of a public institution or cooperative of either public or public and private postsecondary educational institutions which offers instructional programs to students;

~~(4)~~ (5) Governing board shall mean the Board of Regents of the University of Nebraska, the Board of Trustees of the Nebraska State Colleges, or the board of governors for each community college area;

~~(5)~~ (6) Program shall mean any program of instruction which leads directly to a degree, diploma, or certificate and, for purposes of section 85-1414, shall include public service programs and all off-campus instructional programs, whether or not such programs lead directly to a degree, diploma, or certificate. Program shall also include the establishment of any new college, school, major division, education center, or institute but shall not include reasonable and moderate extensions of existing curricula

which have a direct relationship to existing programs;

~~(6)~~ (7) Public institution shall mean each campus of a public postsecondary educational institution which is or may be established by the Legislature, which is under the direction of a governing board, and which is administered as a separate unit by the board; and

~~(7)~~ (8) Tax funds designated by the Legislature shall mean all state tax revenue and all property tax revenue.

Sec. 12. Section 85-1409, Reissue Revised Statutes of Nebraska, is amended to read:

85-1409. (1) The members of the commission shall annually elect a chairperson and vice-chairperson from among their members.

(2) The commission shall hold regular meetings at times ~~specified in its rules and regulations determined by the commission~~. Special or additional meetings may be held on the call of the chairperson or upon the call of at least three members. A majority of the members shall constitute a quorum at all meetings. Commission action on any item shall require a majority of those present at meetings in which there is a quorum, except that adoption of the comprehensive statewide plan, or any changes or alternatives thereto, required by section 85-1413 and approval of a new program or disapproval of an existing program pursuant to section 85-1414 shall require the concurrence of a majority of the members.

Sec. 13. Section 85-1410, Reissue Revised Statutes of Nebraska, is amended to read:

85-1410. In carrying out its duties, the commission shall:

(1) Encourage initiatives and collaboration between public institutions, public state and local entities, and private state and local entities to increase the contribution of postsecondary education in advancing Nebraska's economy;

(2) Encourage the governing boards and administrators of public institutions to review instructional practices, curriculum design and content, and related academic considerations to facilitate improvements that enhance the quality of education in the state;

(3) Encourage the interaction of public institutions with elementary and secondary educational institutions to facilitate joint planning initiatives regarding matters such as prior and subsequent learning practices and content, class or credit agreements for high school students enrolling in college-level programs, and shared instructional assignments; and

~~(4) Develop any other program, activity, or function it deems necessary to carry out its purposes pursuant to~~ Develop only those programs, activities, or functions (a) authorized by Article VII, section 14, of the Constitution of Nebraska or the Coordinating Commission for Postsecondary Education Act or (b) as directed by the Legislature. The commission, at its discretion, may develop programs, activities, or functions requested by the Legislature or the Governor. The commission may not direct any public institution to undertake any action unless authorized by Article VII, section 14, of the Constitution of Nebraska or the Coordinating Commission for Postsecondary Education Act.

Sec. 14. Section 85-1412, Reissue Revised Statutes of Nebraska, is amended to read:

85-1412. The commission shall have the following additional powers and duties:

(1) ~~Conduct surveys and studies it finds appropriate for the purposes of the Coordinating Commission for Postsecondary Education Act as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403~~ and request information from governing boards and appropriate administrators of public institutions and other governmental agencies for research projects. All public institutions and governmental agencies receiving state funds shall comply with reasonable requests for information under this subdivision. Public institutions may comply with such requests pursuant to section 18 of this act;

(2) Recommend to the Legislature and the Governor legislation it deems necessary or appropriate to improve postsecondary education in Nebraska and any other legislation it deems appropriate to change the role and mission provisions in sections 85-121.05 and 85-917 to 85-966.01;

(3) ~~Establish any advisory committees it finds will assist the commission in facilitating the performance of its duties as may be necessary to undertake the coordination function of the commission pursuant to section 85-1403 or in soliciting to solicit~~ input from affected parties such as students, faculty, governing boards, administrators of the public institutions, administrators of the private nonprofit institutions of postsecondary education and proprietary institutions in the state, and community and business leaders regarding the coordination function of the

commission;

(4) Participate in or designate an employee or employees to participate in any committee which may be created to prepare a coordinated plan for the delivery of educational programs and services in Nebraska through the telecommunications system;

(5) Seek a close liaison with the State Board of Education and the State Department of Education in recognition of the need for close coordination of activities between elementary and secondary education and postsecondary education;

(6) Administer the Integrated Postsecondary Education Data System or other information system or systems to provide the commission with timely, comprehensive, and meaningful information pertinent to the exercise of its duties. The information system shall be designed to provide comparable data on each public institution. The commission shall also administer the uniform information system prescribed in sections 85-1421 to 85-1427 known as the Nebraska Educational Data System. Public institutions shall supply the appropriate data for the information system or systems required by the commission;

(7) Administer the State Scholarship Award Program Act, the Scholarship Assistance Program Act, and the Postsecondary Education Award Program Act;

(8) Accept and administer loans, grants, and programs from the federal or state government and from other sources, public and private, for carrying out any of its functions, including the administration of privately endowed scholarship programs. Such loans and grants shall not be expended for any other purposes than those for which the loans and grants were provided. The commission shall determine eligibility for such loans, grants, and programs, and such loans and grants shall not be expended unless approved by the Governor;

(9) Make recommendations to the State Board of Education with regard to granting permits for the operation of correspondence schools, privately owned business or trade schools, or other educational institutions under the Private Postsecondary Career School Act whenever any correspondence school, business school, or vocational school offers any course which is intended to lead to the granting of an associate degree, diploma, or certificate or any course which qualifies for college credit;

(10) Pursuant to sections 85-1101 to 85-1104 and section 4 of this act, authorize out-of-state institutions of higher or postsecondary education to offer courses or degree programs in this state;

(11) Pursuant to sections 85-1105 to 85-1111, approve or disapprove petitions to establish new private colleges in this state;

(12)(a) On or before October 1, 1994, and on or before October 1 every two years thereafter through October 1, 1999, submit to the Legislature and the Governor a report of its objectives and activities and the implementation of any recommendations of the commission for the preceding two calendar years; and

(b) On or before December 1, 2000, and on or before December 1 every two years thereafter, submit to the Legislature and the Governor a report of its objectives and activities and any new private colleges in Nebraska and the implementation of any recommendations of the commission for the preceding two calendar years;

~~(12) Allocate state incentive funds among the public institutions pursuant to any directives to the commission in the law providing for or authorizing such funds;~~

(13) Provide staff support for interstate compacts on postsecondary education; and

(14) Request inclusion of the commission in any existing grant review process and information system.

Sec. 15. Section 85-1413, Reissue Revised Statutes of Nebraska, is amended to read:

85-1413. (1) Pursuant to the authority granted in Article VII, section 14, of the Constitution of Nebraska and the Coordinating Commission for Postsecondary Education Act, the commission shall establish and revise as needed a comprehensive statewide plan for postsecondary education which shall include (a) definitions of the role and mission statements for of each public postsecondary educational institution within any general assignments of role and mission as prescribed in sections 85-121.05 and 85-917 to 85-966 and (b) a plan for facilities which utilize tax funds designated by the Legislature.

(2) Beginning on the operative date of this section, the commission shall work in consultation with the governing boards in revising the existing comprehensive statewide plan to reflect the role and mission of public postsecondary educational institutions and to articulate statewide goals. The

process of reviewing and revising the plan shall be completed by January 1, 2001, if practicable.

(3) ~~(2)~~ The planning process of the commission (a) shall be policy-based and ongoing in order to achieve, within the coordination function of the commission pursuant to section 85-1403, the best possible use of available state resources for high quality and accessible postsecondary educational services and (b) shall take into consideration (i) the needs of the state as described in subsection (4) of this section, (ii) general assignments of role and mission for each public institution in sections 85-121.05 and 85-917 to 85-966, and (iii) plans for facilities which utilize tax funds designated by the Legislature.

~~(3)~~ (4) In establishing the plan, the commission shall assess the postsecondary educational needs of the state in the following areas:

- (a) The basic and continuing needs of various age groups;
- (b) Business and industrial needs for a skilled work force;
- (c) Demographic, social, and economic trends;
- (d) The needs of the ethnic populations;
- (e) College attendance, retention, and dropout rates;
- (f) The needs of recent high school graduates and place-bound adults;

- (g) The needs of residents of all geographic regions; and
- (h) Any other areas the commission may designate.

~~(4)~~ (5) The plan shall provide a structure or process which encourages and facilitates harmonious and cooperative relationships between public and private postsecondary educational institutions and shall recognize the role and relationship of elementary and secondary education and private postsecondary educational institutions in the state to postsecondary education.

~~(5)~~ (6) The commission shall incorporate into the plan provisions and policies to guide decisionmaking by the commission pursuant to this section and sections 85-1414 and 85-1415. The provisions and policies shall address issues which include, but are not limited to:

(a) The facilitation of statewide transfer-of-credit guidelines to be considered by institutional governing boards. The statewide transfer-of-credit guidelines shall be designed to facilitate the transfer of students among public institutions. The statewide transfer-of-credit guidelines shall not require nor encourage the standardization of course content and shall not prescribe course content or credit value assigned by any public institution to the courses;

(b) ~~Admission standards.~~ The commission shall develop general Recommended guidelines for admissions which recognize selective and differentiated admission standards at public institutions and which are consistent with the role and mission of each public institution. It is the intent of the Legislature that changes in admission standards be implemented in conjunction with the role and mission statements established pursuant to this section and sections 85-121.05 and 85-917 to 85-966 and the adoption of statewide transfer-of-credit and remedial program policies to assure that access to postsecondary education is not limited;

(c) ~~Enrollment guidelines.~~ The commission shall establish Recommended enrollment guidelines consistent with the role and mission of each public institution and shall make specific recommendations designed to increase diversity through more effective enrollment and retention at public institutions;

(d) ~~Tuition and fees.~~ The commission shall develop Recommended guidelines for rational and equitable statewide tuition rates and fees for public institutions. The commission shall also identify public policy issues relating to tuition and fees of the public postsecondary educational institutions in the state. The recommended guidelines shall take into account the role and mission of each public institution and the need to maximize access to public postsecondary education regardless of a student's financial circumstance;

(e) ~~Remedial programs.~~ In conjunction with and consistent with its recommended guidelines on admission standards, the commission shall develop recommended guidelines which place the primary emphasis at the community college level for postsecondary education remedial programs and reduce the role of the University of Nebraska in offering remedial programs. The commission shall collaborate with the Commissioner of Education to develop recommendations for secondary schools designed to reduce the need for remedial or developmental programs at the postsecondary level;

(f) ~~Geographic and programmatic service areas.~~ The commission shall define, after In consultation with the governing boards, the or their designated representatives, designation of geographic and programmatic service

areas for each public institution consistent with role and mission assignments. Except as permitted by the commission pursuant to section 85-1414, after July 1, 1992, no public institution shall provide programs at any site outside its assigned geographic and programmatic service area unless permitted under rules and regulations adopted and promulgated by the commission;

(g) ~~Institutional peer group.~~ ~~The commission shall, after~~ After consultation with the governing boards and experts from outside the State of Nebraska, ~~establish the establishment of~~ a peer group or groups for each public institution for purposes of budget review. In fulfilling this charge, the commission may accept a peer group determined by a governing board in consultation with out-of-state experts;

(h) ~~Telecommunications.~~ ~~The plan shall address and facilitate the appropriate~~ Effective use of information technologies and telecommunications to aid in the delivery of instruction at the postsecondary level. In cooperation with the Nebraska Educational Telecommunications Commission, other state agencies, and, when appropriate, representatives of elementary and secondary public education, the commission may assist in the development of instructional delivery systems employing information technologies and telecommunications. The commission, with the involvement of faculties, public institutions and private postsecondary educational institutions, and the information technology and telecommunications community, shall establish policies to ensure that the objectives of quality and efficiency are met in the delivery of information technology and telecommunications-aided instruction;

(i) ~~Economic Workforce development.~~ ~~The commission shall, in cooperation with Nebraska businesses, governing boards, and the Department of Economic Development, assist in the development of strategies and plans for involvement of postsecondary education in the economic development of the state.~~ The commission and the cooperating entities shall explore methods to improve the competitive quality of the work force and shall encourage enhanced communications and partnerships between public institutions and business and industry;

(j) Public service activities. The public institutions shall develop and provide to the commission a comprehensive inventory of public service programs and activities of public institutions; and

(k) Financial aid strategy. The commission shall develop a state strategy for state-supported student financial aid programs with the goal of assuring access to and choice in postsecondary education in Nebraska for Nebraska residents within the limits of available state resources.

~~(6)~~ (7) The commission shall develop a unified statewide facilities plan ~~with the assistance of the public institutions~~ in consultation with the governing boards or their designated representatives and update the plan periodically.

(8) Prior to March 15 of the year following the year of adoption of the revised comprehensive statewide plan for postsecondary education required by subsection (2) of this section and prior to March 15 of the year following a year in which any revision is made to the comprehensive statewide plan, the Education Committee of the Legislature shall review the comprehensive statewide plan and revisions thereto at a public hearing and report its findings to the Legislature.

Sec. 16. Section 85-1414, Reissue Revised Statutes of Nebraska, is amended to read:

85-1414. (1) Pursuant to the authority granted in Article VII, section 14, of the Constitution of Nebraska and the Coordinating Commission for Postsecondary Education Act, the commission shall establish an ongoing process to review, monitor, and approve or disapprove the new and existing programs of public institutions and proposed capital construction projects which utilize tax funds designated by the Legislature in order to provide compliance and consistency with the comprehensive statewide plan and to prevent unnecessary duplication. When complying with requests for information during the review, monitoring, and approval process, public institutions may comply pursuant to section 18 of this act.

(2)(a) Governing boards shall submit to the commission all proposals for any new program after the governing board has approved the program and prior to implementation of the program. Except for programs submitted for conditional approval by the commission pursuant to subdivision (b) of this subsection, the commission shall have ~~one hundred twenty~~ ninety days from the date the program was submitted to disapprove a program or it shall stand approved. The commission shall establish a waiver process for specific, short-term job training programs and short-term public service programs as defined by the commission. New programs submitted for review may be approved

or disapproved in whole or in part and with or without recommended modifications based on criteria established pursuant to subsection (7) of this section.

(b) After approval of the program by the governing board, the governing board may submit a proposal for a program which is not authorized by the role and mission provisions of sections 85-121.05 and 85-917 to 85-966 to the commission for conditional approval. Within ~~six months~~ one hundred twenty days from its receipt of the proposal, the commission shall report to the Legislature its recommendation in support for or opposition to the amendments to the role and mission statutes that would be necessary for the commission to approve the program and for the institution to offer the program. The time period for submission of the report may be extended for up to ~~six months~~ an additional ninety days by resolution of the commission which shall show good cause why the extent of review required for this particular proposal necessitates an extension of time to complete the review. Such extension shall be filed with the chairperson of the Education Committee of the Legislature prior to the expiration of the initial ~~six months~~ one hundred twenty days. The report shall contain supporting rationale for the commission's position, such additional comments as the commission deems appropriate and, in the event the commission supports the amendments to the role and mission statutes, the commission's specific recommendation as to the form of such amendments. ~~Failure to timely file a report or resolution of extension with the Legislature shall be deemed to be disapproval of the proposed program and opposition by the commission to the amendments to the role and mission statutes the program would require.~~ If the report indicates support for the necessary amendments to the role and mission statutes, the report shall also constitute the commission's conditional approval of the program, unless the report specifically indicates disapproval of the program. If the necessary amendments to the role and mission statutes supported by the commission in its report to the Legislature are subsequently enacted by the Legislature, the program shall stand approved. ~~unless the commission's conditional approval is rescinded prior to the implementation of the program.~~ Nothing in this section for conditional approval shall be construed to affect the commission's future consideration of such proposal or approval or disapproval of any programs affected by the proposal.

(3) Following approval of a new program, such program shall be added to the schedule of existing programs to be reviewed by the commission. Following consultation with the governing board, new programs approved by the commission may also be required to meet, within a reasonable time as stipulated by the commission, minimum performance standards established by the commission pursuant to its rules and regulations. If a program fails to meet minimum performance standards, the commission shall review the program and may continue or withdraw its approval for the program.

(4) Existing programs shall be reviewed by the commission pursuant to a program review process established by the commission. ~~To~~ in consultation with the governing boards or their designated representatives which, to the extent possible while still allowing for timely review by the commission, program review shall coincide with institutional review and accreditation cycles. In reviewing existing programs, the commission may make use of nonconfidential information and conclusions provided by accreditation processes supplied to the commission by the institutions. All programs in existence prior to January 1, 1992, shall be considered approved until the approval is confirmed or withdrawn by the commission pursuant to the program review process conducted by the commission.

(5) Existing programs which do not meet criteria established by the commission pursuant to subsection (7) of this section shall be targeted for indepth review by the public institutions and their governing boards. In performing such indepth review, institutions may make use of information and conclusions provided by accreditation and other established and ongoing academic review processes rather than providing for a separate review process. Programs continued by the governing boards shall be further monitored by the governing board which shall report the status and process of the monitoring to the commission. If the commission determines that a program does not merit continuation, it shall hold a public hearing, following thirty days' notice to the public institution, to consider if the program should be continued. Following the hearing, the commission shall take action to approve or disapprove continuance of the program.

(6) Existing programs disapproved for continuance by the commission shall be terminated by a public institution when all students in the program on the date of the decision of the commission to disapprove continuance of the program have had a reasonable opportunity, as determined by the ~~commission~~ governing board of the public institution, to complete the program. Existing

public service programs disapproved for continuance by the commission shall be terminated at the end of the fiscal year in which the decision to disapprove is made.

(7) The commission shall establish criteria for the review, monitoring, and approval or disapproval of programs. The governing boards of the public institutions shall be responsible for assuring the quality and effectiveness of programs offered by their institutions. The commission's criteria shall be designed to (a) assure that the governing boards promote the quality and effectiveness of programs resulting in the viability of such programs, ~~(b)~~ meet educational needs, and ~~(c)~~ (b) assure efficiency and avoid unnecessary duplication. Criteria shall include:

- (i) Centrality to the role and mission of the public institution;
- (ii) Consistency with the comprehensive statewide plan;
- (iii) Evidence of need and demand; ~~including, when appropriate, quantifiable data or qualitative information or both quantifiable data and qualitative information;~~ and
- (iv) Adequacy of resources to support the program proposed new programs.

The criteria shall not infringe on the prerogative of the governing boards to make decisions on the quality of staff and the design of curriculum.

(8) The commission shall develop specific criteria for review, monitoring, and approval or disapproval of participation by any public institution in proposed or existing education centers in addition to the criteria specified in this section. Participation by a public institution in an education center shall also be approved by the governing board of such public institution. The commission shall develop policies and procedures for conducting and approving off-campus programming in an education center. Any education center developed and established on or after November 6, 1990, except for any program for which funds have been specifically earmarked by the Legislature for FY1990-91, shall be deemed disapproved until approved as a new program by the commission.

(9) Each public institution shall submit ~~an~~ its most recent institutional facilities plan to the commission subject to commission guidelines for the format and content of such plans. The commission shall (a) review each institutional facilities plan to ensure ~~(a)~~ (i) consistency with the comprehensive statewide plan, statewide facilities plan, and institutional role and mission assignments and ~~(b)~~ (ii) identification of unnecessary duplication of facilities and (b) make a written report of its review to the governing board of the public institution within ninety days after receipt of the institutional facilities plan. The commission may, in accordance with the coordination function of the commission pursuant to section 85-1403, recommend modifications to the institutional facilities plans and may require submission of periodic updates of the institutional facilities plans.

(10) Governing boards shall submit all proposed capital construction projects which utilize tax funds designated by the Legislature to the commission for review and approval or disapproval. The commission shall, in accordance with the coordination function of the commission pursuant to section 85-1403, review, monitor, and approve or disapprove each such capital construction project to provide compliance and consistency with the statewide facilities plan and the comprehensive statewide plan and to prevent unnecessary duplication of capital facilities. The commission may disapprove a project only on the basis of a finding by the commission that the project (a) does not comply or is inconsistent with one or more provisions of the statewide facilities plan or other relevant provisions of the comprehensive statewide plan or (b) will result in unnecessary duplication of capital facilities. All capital construction projects in existence or receiving appropriations prior to January 1, 1992, shall be deemed approved.

(11) In fulfilling its program and project approval activities prescribed in this section, the commission shall, in accordance with the coordination function of the commission pursuant to section 85-1403, recognize educational activities among all segments of postsecondary education and take into account the educational programs, facilities, and other resources of both public and independent and private postsecondary educational institutions.

(12) Any program which is authorized by action of the Legislature or a governing board and which is not in existence prior to January 1, 1992, shall not become operative unless and until such program has been approved by the commission pursuant to this section.

Sec. 17. Section 85-1416, Reissue Revised Statutes of Nebraska, is amended to read:

85-1416. (1) Pursuant to the authority granted in Article VII, section 14, of the Constitution of Nebraska and the Coordinating Commission for Postsecondary Education Act, the commission shall, in accordance with the

coordination function of the commission pursuant to section 85-1403, review and modify, if needed to promote compliance and consistency with the comprehensive statewide plan and prevent unnecessary duplication, the budget requests of the governing boards.

(2)(a) At least thirty days prior to submitting to the Governor their biennial budget requests pursuant to section 81-1113 and any major deficit appropriation requests pursuant to instructions of the Department of Administrative Services, the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges shall each submit to the commission an outline of its proposed operating budget. The outline of its proposed operating budget or outline of proposed state aid request shall include those information summaries provided to the institution's governing board describing the respective institution's budget for the next fiscal year or biennium. The outline shall contain projections of funds necessary for (i) the retention of current programs and services at current funding levels, (ii) any inflationary costs necessary to maintain current programs and services at the current programmatic or service levels, and (iii) proposed new and expanded programs and services. In addition to the outline, the commission may request an institution may to provide to the commission any other supporting information at the request of the commission or otherwise to identify the major components necessary for the commission to determine the public institution's compliance and consistency with the comprehensive statewide plan and the existence of any unnecessary duplication to assist the commission in its budget review process. An institution may comply with such requests pursuant to section 18 of this act.

(b) On September 15 of each biennial budget request year, the boards of governors of the community colleges or their designated representatives shall submit to the commission outlines of their proposed state aid requests pursuant to sections 85-1536 and 85-1537.

(c) The commission shall analyze institutional budget priorities in light of the comprehensive statewide plan, role and mission assignments, and the goal of prevention of unnecessary duplication. The commission shall submit to the Governor and Legislature by October 15 of each year recommendations for approval or modification of each budget request together with a rationale for each such recommendation. The analysis and recommendations by the commission shall focus on budget requests for new and expanded programs and services and major statewide funding issues or initiatives as identified in the comprehensive statewide plan. If an institution does not comply with the commission's request pursuant to subdivision (a) of this subsection for additional budget information, the commission may so note the refusal and its specific information request in its report of budget recommendations. The commission shall also provide to the Governor and the Appropriations Committee of the Legislature on or before October 1 of each even-numbered year a report identifying public policy issues relating to student tuition and fees, including the appropriate relative differentials of tuition and fee levels between the sectors of public postsecondary education in the state consistent with the comprehensive statewide plan.

(3) At least thirty days prior to submitting to the Governor their biennial budget requests pursuant to section 81-1113 and any major deficit appropriation requests pursuant to instructions of the Department of Administrative Services, the Board of Regents of the University of Nebraska and the Board of Trustees of the Nebraska State Colleges shall each submit to the commission information the commission deems necessary regarding each board's capital construction budget requests. The commission shall review the capital construction budget request information and may recommend to the Governor and the Legislature modification, approval, or disapproval of such requests consistent with the statewide facilities plan and any project approval determined pursuant to subsection (10) of section 85-1414 and to section 85-1415. The commission shall develop from a statewide perspective a unified prioritization of individual capital construction budget requests for which it has recommended approval and submit such prioritization to the Governor and the Legislature for their consideration. In establishing its prioritized list, the commission may consider and respond to the priority order established by the Board of Regents or the Board of Trustees in their respective capital construction budget requests.

(4) Nothing in this section shall be construed to affect other constitutional, statutory, or administrative requirements for the submission of budget or state aid requests by the governing boards to the Governor and the Legislature.

Sec. 18. Each public institution may file with the commission a copy of any report filed with any other state agency. The filing shall be

either in an electronic format compatible with the commission's computer system or a paper copy. A public institution may respond to any requests for information from the commission by providing the commission with the exact location of the information within a report that has previously been filed with the commission.

Sec. 19. Section 85-1420, Reissue Revised Statutes of Nebraska, is amended to read:

85-1420. There is hereby created the Coordinating Commission for Postsecondary Education Trust Fund. The fund shall serve as a revolving fund to receive grants from foundations, ~~and~~ institutions, ~~or individuals~~ for specific studies which are a part of the powers and duties of the commission or for the administration of privately endowed scholarship programs for students attending Nebraska institutions. The grant money shall be used only for purposes specified in the grant. A report of the findings of any studies done pursuant to the grants shall be included as a part of the operating budget request submitted to the Legislature and the Governor. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 20. Section 85-1423, Reissue Revised Statutes of Nebraska, is amended to read:

85-1423. The commission shall maintain a comprehensive state-level public postsecondary education information system. ~~The After consulting with the governing boards or their designated representatives, the~~ commission shall:

(1) Identify the state-level information to be reported on an annual or periodic basis regarding each postsecondary system's and institution's programs, personnel, finances, students, and facilities utilization and inventory;

(2) Identify the data elements for which information will be collected and reported to the state;

(3) Identify the information classification formats to be used by the postsecondary systems and institutions in presenting program, financial, student, facility, personnel, and audit information;

(4) Identify the data-collection, reporting, and auditing procedures for the information system; and

(5) Identify a procedure for updating the information system to meet changing conditions.

Sec. 21. Sections 1, 21, 23, and 24 of this act become operative on their effective date. The other sections of this act become operative on September 1, 1999.

Sec. 22. Original sections 85-1101, 85-1102, 85-1104, 85-1105, 85-1108, 85-1109, 85-1401, 85-1402, 85-1409, 85-1410, 85-1412, 85-1413, 85-1414, 85-1416, 85-1420, and 85-1423, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 23. Original section 85-408, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 24. Since an emergency exists, this act takes effect when passed and approved according to law.